

## **REMARKS**

Reconsideration of this application is requested in view of the amendments to the specification and claims and the remarks presented herein.

The claims in the application are claims 28 to 44 and 47 to 55, all other claims having been cancelled. It is noted that the Examiner has objected to the declaration as being defective and a new declaration will be submitted shortly but additional time is needed to obtain execution thereof.

Claims 33, 35, 36, 41 and 46 were objected to as being in improper dependent form for further limiting a previous claim. Claims 38, 39 and 55 were objected to as containing a misspelling of "pairs" and another misspelling in claim 55.

It is believed that the amendments to the claims obviates the Examiner's objections thereto and therefore withdrawal thereof is requested.

A new Abstract of the Disclosure is being submitted wherein the misspelling has been corrected and the specification has been amended to insert a Brief Description of the Drawings.

Claims 28 to 33, 35 to 46, 54 and 55 were rejected under 35 USC 112 as being indefinite. It is believed that the amended claims are free of the Examiner's objections thereto. The term "fragment" has been cancelled from the claims and the use of the term "specific" in claims 28 to 33, 35 to 46, 54 and 55 is ill founded since one skilled in the art would readily understand that the term "specific" is used to denote nucleic acid sequences that enable one to differentiate the members of *M. tuberculosis* complex from other bacteria, in particular, to differentiate BCG from other members of *M. tuberculosis* complex as indicated in lines 24 to 27 of page 4 and line 34 of page 4 through line 10 of page 5. Therefore, it is deemed that the term "specific" meets the requirements of 35 USC 112.

The Examiner's objection to the term "complementary sequences" is moot in view of the amendment of the claims according to the Examiner's suggestion. Claim 30 has been amended to recite that it is the microbacteria which is different from BDG which is supported by lines 24 to 27 of page 4. In claim 33, the term "high stringency conditions" has been replaced by the conditions described in lines 10 to 14 of page 6. Therefore, the objection to claims 33, 35, 36, 41 and 46 is deemed to be moot.

The deletion of the term "fragment" from claim 28 removes the objection of claims 35, 36, 41 and 46. The term "corresponding" recited in claim 33 was alleged to be unclear but Applicants believe this objection is ill founded since one skilled in the art would readily understand that when referring to a DNA sequence such as the sequences

recited in claim 28, “their corresponding RNA sequence” are the DNA sequences converted in RNA bases (i.e. T changed into U) and “their corresponding gene” are the genomic sequences which contain the recited DNA sequence with intronic sequences inserted therein. Therefore, this ground of rejection is deemed to be improper.

In claim 37, the expression “a sequence of the region of sequence SEQ ID No: 2” has been replaced by “a region of SEQ ID No: 2”. Therefore, one readily skilled in the art would understand that claim 37 covers a probe which sequence is a fragment of SEQ ID No: 2 wherein the fragment comprises the GAG codon in position 10 to 42 or the complement of said fragment. The probes according to claims 38 and 39 are now defined according to nucleotide positions of SEQ ID No: 2.

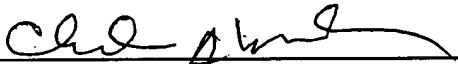
Claim 42 has been amended to clearly recite that the primer pair is constituted by one primer that comprises the nucleotide sequence of sequences adjacent to senX3-regX3 region in the 3’ of senX3 region and the other primer comprises the nucleotide sequence of sequences adjacent to the senX3-regX3 region in the 5’ of regX3 region. A similar amendment has been made in claims 54 and 55 thereby rendering the objection to claims 42 to 44, 54 and 55 moot.

Claim 44 has been clarified and now recites “a nucleotide primer pair of claim 42 consisting of”. The objection to claims 45 and 46 is rendered moot by the cancellation of these claims and claim 55 has been amended to recite “a method of detection...in a

biological sample comprising” to provide antecedent basis for the term “biological sample”. Therefore, the claims as amended are believed to comply with 35 USC 112 and withdrawal of these grounds of rejection is requested.

In view of the amendments to the specification and claims and the above remarks, it is believed that the claims clearly point out Applicants’ patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,  
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Enclosures